

REMARKS

This paper is filed in response to the Restriction Requirement set forth in the Office Action (Paper No. 20070214a) mailed on 21 February 2007, reconsideration and re-examination are respectfully requested.

Listing of the Claims

Pursuant to 37 CFR §1.121(c), this listing of the claims, including the text of the claims, will serve to replace all prior versions of the claims, in the application.

Amendment of the Claims

Independent claim 1 is amended to provide a genus claim linking Species I and II, while apparatus claim 37 depending upon claim 18, and process claim 38, depending upon claim 30, are newly presented as linking claims directed to both Species I and II, in order to round out the scope of coverage to which Applicant is entitled and thus assist the Examiner in this compacted prosecution in compliance with current Office policy to expedite the examination.

Status of the Claims

Claims 1 through 38 are pending in this application.

Requirement for Restriction - 37 CFR §1.142

In the Requirement for an election of species set forth in the Office Action, the Examiner required the Applicant to make an election under 35 U.S.C. §121 and 37 CFR §1.146, between:

- **Species I** directed to the lead plate adapted to be pressed into an aperture of the cap plate;
- **Species II** directed to the lead plate adapted to be pressed into at least one cavity of the can.

Applicants respectfully traverse the election requirement imposed in the Office action, but

provisionally elect **Species II** directed to the lead plate adapted to be pressed into at least one cavity of the can. Accordingly, claims 1 through 38 are encompassed by Applicant's election.

This imposition of a requirement for election of species under 37 CFR §1.146 is traversed because this requirement is contrary to Office policy. As is specifically stated in MPEP § 803, the Examiner must show that the (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP §806.05 - §806.05(i)); **and** (B) There must be a **serious burden** on the examiner if restriction is required (see MPEP §803.02, § 806.04(a) - §806.04(i), §808.01(a), and § 808.02).

If the requirement for restriction is not withdrawn, then the Applicants reserve the right to file a Petition to the Commissioner because there is no *serious* burden upon the Examiner in searching the invention of Species I and Species II.

In view of the foregoing demonstration of the impropriety of this requirement for election of species under 37 CFR §1.146 because this requirement is contrary to Office policy as written in 37 CFR §1.146 and the absence of any demonstration that the (A) inventions are independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP §806.05 - §806.05(i)); **and** (B) has not shown that there is a **serious burden** on the Examiner if restriction is required (see MPEP §803.02, § 806.04(a) - §806.04(i), §808.01(a), and § 808.02), withdrawal of this second requirement is respectfully requested. Such action is urged.

It is further submitted that the application is in condition for examination on the merits, and early allowance is requested.

A fee of \$100.00 is incurred by adding two (2) dependent claims in excess of the thirty-six (36) total claims previously paid for. Applicant's check drawn to the order of the Commissioner accompanies this Amendment. Should the check become lost, be deficient in payment, or should

other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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